



UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD
FREEDOM OF INFORMATION ACT BRANCH
Washington, D.C. 20570

Via email

October 3, 2022

Re: FOIA Request NLRB-2022-001861

Dear Yana Tochitsky (Southern California Labor Law Group, P.C.):

This is in response to your request, under the Freedom of Information Act (FOIA), 5 U.S.C. § 552, received on September 8, 2022, in which you seek specified records: two "Compliance Case--Certification of Posting", both dated November 13, 2019; the "Compliance Case--Closing Letter" dated December 3, 2019; and the "Compliance Case--Closing Letter" dated January 2, 2020, in *Kaiser Foundation Hospitals; Southern California Permanente Medical Group*, Case No. 21-CA-224219. You assumed financial responsibility for the processing of your request in the amount of \$37.00.

We acknowledged your request on September 8, 2022.

A search of the Agency's electronic casehandling system, NxGen, has been conducted. This search has located the two November 13, 2019 Certifications of Posting and the Compliance Case - Closing Letter which is dated December 27, 2019 (not January 2, 2020). Please note that it was discovered during our search that the Compliance Case -Closing Letter had the incorrect issuance date listed on the Agency's website <https://www.nlr.gov/case/21-CA-224219>, which has since been corrected to December 27, 2019. Accordingly, three records, totaling seven pages, are attached.

After a review, I have determined that certain information in the attached records are exempt from disclosure under Exemptions 4, 6 and 7(C) of the FOIA (5 U.S.C. § 552(b)(6) and (b)(7)(C)). Specifically, one redaction of the Employer's Intranet URL was made pursuant to Exemption 4, which exempts from disclosure commercial or financial information that the submitter does not "customarily" disclose to the public; and in addition, privacy redactions were made pursuant to FOIA Exemption 6, which pertains to information the release of which would constitute a clearly unwarranted invasion of personal privacy, and FOIA Exemption 7(C), which pertains to records or information compiled for law enforcement purposes, the release of which could reasonably be expected to constitute an unwarranted invasion of personal privacy. 5 U.S.C. § 552(b)(4), (b)(6), and (b)(7)(C).

Please be advised that the one remaining record you requested - a Compliance Case - Closing Letter dated December 3, 2019, was incorrectly/mistakenly posted to the *Kaiser Foundation/Southern California Permanente Medical Group* case page. That is, that Dec 3, 2019 letter was for a different, unrelated case (*Schenker, Inc.*, Case Nos. 21-CA-229664, 21-CA-230306, and 21-CA-230310) and has since been placed in the correct case file and reference removed from the case page.

For the purpose of assessing fees, we have placed you in Category A, commercial use requester. This category refers to requests “from or on behalf of a person who seeks information for a use or purpose that furthers the commercial, trade, or profit interests of the requester or the person on whose behalf the request is made, which can include furthering those interests through litigation.” NLRB Rules and Regulations, 29 C.F.R. § 102.117(d)(1)(v). Consistent with this fee category, you “will be assessed charges to recover the full direct costs of searching for, reviewing for release, and duplicating the records sought.” 29 C.F.R. § 102.117(d)(2)(ii)(A). Charges are \$9.25 per quarter-hour of professional time. 29 C.F.R. § 102.117(d)(2)(i).

Fifteen minutes of professional time was expended in searching for and reviewing for release the requested material. Accordingly, please remit \$9.25.

Payment Instructions: Due to the COVID-19 pandemic and resulting widespread employee telework at the Agency’s Headquarters offices, we are no longer accepting checks or money orders as payment at this time. To submit payment for your FOIA request, please use www.pay.gov. From the www.pay.gov home page, scroll down to the bottom left corner to select “Pay a FOIA Request.” Click “See all options” and go to “Filter By Agency” to check the box for the National Labor Relations Board. Continue following instructions on the website. Please remember to include the Invoice Number, which is the NLRB FOIA Case No., and the amount you intend to pay. Further, please be advised that all FOIA payments must be paid in full before any future FOIA requests are processed.

You may contact Jodilyn Breirather, the FOIA Specialist who processed your request, at (202) 368-1927 or by email at Jodilyn.Breirather@nrlb.gov, as well as the Agency’s FOIA Public Liaison, for any further assistance and/or to discuss any aspect of your request. The FOIA Public Liaison, in addition to the FOIA Specialist, can further explain responsive and releasable agency records, suggest agency offices that may have responsive records, and/or discuss how to narrow the scope of a request in order to minimize fees and processing times. The contact information for the FOIA Public Liaison is:

Kristine M. Minami
FOIA Public Liaison
National Labor Relations Board
1015 Half Street, S.E., 4th Floor
Washington, D.C. 20570
Email: FOIAPublicLiaison@nrlrb.gov
Telephone: (202) 273-0902
Fax: (202) 273-FOIA (3642)

After first contacting the Agency, you may additionally contact the Office of Government Information Services (OGIS) at the National Archives and Records Administration to inquire about the FOIA dispute resolution services it offers. The contact information for OGIS is:

Office of Government Information Services
National Archives and Records Administration
8601 Adelphi Road-OGIS
College Park, Maryland 20740-6001
Email: ogis@nara.gov
Telephone: (202) 741-5770
Toll free: (877) 684-6448
Fax: (202) 741-5769

You may obtain a review of this determination under the NLRB Rules and Regulations, 29 C.F.R. § 102.117(c)(2)(v), by filing an administrative appeal with the Division of Legal Counsel (DLC) through FOIAonline at:
<https://foiaonline.gov/foiaonline/action/public/home> or by mail or email at:

Nancy E. Kessler Platt
Chief FOIA Officer
National Labor Relations Board
1015 Half Street, S.E., 4th Floor
Washington, D.C. 20570
Email: DLCFOIAAppeal@nrlrb.gov

Any appeal must be postmarked or electronically submitted within 90 calendar days of the date of this letter. Any appeal should contain a complete statement of the reasons upon which it is based.

Please be advised that contacting any Agency official (including the FOIA Specialist, FOIA Officer, or the FOIA Public Liaison) and/or OGIS does not stop

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the 90-day appeal clock and is not an alternative or substitute for filing an administrative appeal.

Sincerely,

/s/ *Synta E. Keeling*

Synta E. Keeling
FOIA Officer

Attachment: (seven pages)